



ARKANSAS INSURANCE DEPARTMENT LEGAL DIVISION

1200 West Third Street
Little Rock, AR 72201-1904
501-371-2820
FAX 501-371-2629

RULE AND REGULATION 17

RULES GOVERNING SOLICITATION AND ADVERTISEMENT OF LIFE INSURANCE

SECTION 1. AUTHORITY

The Rule is adopted and promulgated by the Arkansas Insurance Department pursuant to the authority provided in Arkansas Statutes Annotated §66-3001, through §66-3028, §66-2111, and other applicable provisions of the Arkansas Insurance Code.

SECTION 2. PURPOSE

The interest of prospective purchasers of life insurance must be safeguarded by providing such persons with clear and unambiguous statements, explanations and written proposals concerning the life insurance contracts offered to them. This purpose can best be achieved by requiring disclosure of certain basic information and defining those acts and practices which are deceptive or misleading or misrepresent the terms of the contract.

It is in the interest of prospective purchasers of life insurance that there should be available to such persons a cost index which will provide a uniform basis upon which to compare the relative cost of similar plans of *insurance*. It is in the public interest to make a cost index available so that price competition in the life insurance market is encouraged and stimulated.

This Regulation is not intended to prohibit any life insurance agent or insurer from using additional solicitation material which is not in violation of any section of this Regulation, applicable Arkansas Statutes or other applicable Insurance Department Regulations.

SECTION 3. APPLICABILITY

This Regulation applies to all insurance companies authorized to transact the business of life insurance in Arkansas. This Regulation shall apply to any solicitation and procurement of and negotiation for life insurance occurring within this State, except as hereinafter exempted. Section 4 of this Regulation shall not apply to credit life insurance or to group life insurance. Section 5 of this Regulation shall not apply to the types of life insurance excluded in Section 5(a).

SECTION 4. DISCLOSURE REQUIREMENTS

In connection with the selling of life insurance:

- A. An agent shall inform the prospective purchaser that he is acting as an insurance agent and give the prospective purchaser the full name and home address of the insurance company for which he is a licensed agent;
- B. And an insurer shall inform the prospective purchaser of its full name and home address;
- C. The agent or insurer shall provide to the prospective purchaser, prior to or with the delivery of a contract, a dated written proposal describing the elements of the contract, including, but not limited to:

(1) The name, home address, or agent address of the insurance agent, or the name of the employee of the insurer, if no agent is involved, who assumes responsibility for the proposal;

(2) The full name and home address of the company in which the life insurance is to be written;

(3) The specific type of life insurance coverage, the amount of coverage, the duration of coverage, the annual premium and the premium payment period.

The premiums for the life insurance must be shown separately from the premiums for each additional supplemental benefit provided in the contract, and the face amount of the life insurance must be shown separately from the amounts of coverage shown for any additional or supplemental benefit provided for in the contract.

If the amount of coverage or premium for the policy and riders decreases or increases at any time, representative amounts of coverages and premiums must be shown to indicate to the prospective purchaser how such amounts will change.

(4) The amount of cash value per \$1,000 or for the face amount of insurance, which develop such values, shall be shown no less frequently than at the end of 5-10-15-20 years and at age 60 and 65.

(5) If dividends are to be illustrated, it must disclose that such dividends are neither guarantees nor estimates of future results, and that dividend illustrations are based on the company's current experience and may change depending upon such company experience. Any additional policy benefits arising from the use of dividends must be separately disclosed.

D. When the sale involves a product in addition to life insurance, the life insurance solicitation must be separately disclosed and must be independently available without the purchase of another product, unless such sale has been found unobjectionable by the Insurance Commissioner for the State of Arkansas. All information applicable to the life insurance sale must be separately disclosed as required by this section.

E. In the event a computer or financial advisory service produces or furnishes individualized promotional material used in connection with the sale or solicitation of insurance, a complete disclosure shall be made identifying any financial, proprietary or contractual arrangement or interest between the service and the insurer or agent.

SECTION 5. THE LIFE INSURANCE INTEREST ADJUSTED COST COMPARISON INDEX

The Interest Adjusted Index (at 4%) will be used to provide the purchaser with a means of comparing costs of life insurance policies offering identical coverage and having substantially the same premium payment period. The 10 year index and 20 year index per \$1,000 of insurance shall be shown for the appropriate policy.

(a) Applicability - The Interest Adjusted Cost Comparison Index shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state; except for the following:

- (1) Annuities;
- (2) Credit Life Insurance;
- (3) Group Life Insurance;
- (4) Franchise Life Insurance;
- (5) Term Life Insurance;
- (6) Plans of life insurance with benefits which vary by policy duration including but not limited to such plans as retirement income and variable life insurance;
- (7) Benefits which are supplemental basic life insurance benefits such as accidental death and dismemberment, waiver of premium or guaranteed insurability benefits (if the cost of any of these benefits are included in the price of the basic life insurance without separate identifiable charge then in calculating the Life Insurance Interest Adjusted Cost

- Comparison Index, a reasonable adjustment in the annual premium payable per \$1,000 basis may be made);
- (8) Benefits purchased by a special option applicable to dividends;
 - (9) Life insurance policies wherein the face amount of insurance is less than \$5,000;
 - (10) Life insurance on substandard risks;
 - (11) Life insurance policies issued in connection with split funded pension trust plans.

(b) The Interest Adjusted Cost Comparison Index for level premium plans of insurance shall be calculated by applying the following steps:

Step 1. Determine the cash value (and terminal dividend, if any) available at the end of the 10th and 20th policy years.

Step 2. For participating policies, accumulate the annual dividends at 4% interest compounded annually to the end of the 10th and 20th policy years, and add this accumulation to the result of Step 1.

Step 3. Divide the result of Step 2 (Step 1 for non-participating policies) by an interest factor that converts it into a level annual amount accruing over the 10 or 20 year period. If the period is 10 years, the factor is 12.486, and if the period is 20 years, the factor is 30.969.

Step 4. Subtract the result of Step 3 from the annual premium payable.

Step 5. Divide the result of Step 4 by the number of thousands of the amount of insurance to arrive at the Life Insurance Interest Adjusted Cost Comparison Index.

The Life Insurance Interest Adjusted Cost Comparison Index for plans of insurance with premiums which are not level shall be calculated as follows:

Step 1. Determine the cash value (and terminal dividend, if any) available at the end of the 10th and 20th policy years;

Step 2. For participating policies, accumulate the annual dividends at 4% interest compounded annually to the end of the 10th and 20th policy years, and add this accumulation to the result of Step 1.

Step 3. Divide the result of Step 2 (Step 1 for non-participating policies) by an interest factor that converts it into a level annual amount accruing over the 10 or 20 year period. If the period is 10 years, this factor is 12.486, and if the period is 20 years, the factor is 30.969.

Step 4. Subtract the result of Step 3 from the equivalent level premium determined by accumulating the annual premium payable at 4% interest compounded annually to the end of the 10 or 20 year period and dividing the result by the factor in Step 3.

Step 5. Divide the result of Step 4 by the number of thousands of the amount of insurance to arrive at the Life Insurance Interest Adjusted Cost Comparison index.

(c) **DISCLOSURE REQUIREMENTS.** In connection with the selling of life insurance to which this Rule applies the agent or insurer shall furnish, upon request of a sales prospect at or prior to delivery of the policy, the Life Insurance Interest Adjusted Cost Comparison Index calculated for both the 10th policy year and the 20th policy year period. The Index need not be provided for a period which extends beyond the end of the premium payment period for the plan.

(d) The following explanation, or one of substantially the same meaning, must accompany the 10 year and 20 year Interest Adjusted Cost Comparison Indices:

The Interest Adjusted Cost Comparison Index provides one means of comparing the relative cost of two very similar policies sold by the same company or by different companies. Subject to the assumptions implicit in the Interest Adjusted Method, a low index number represents a lower cost than a higher one. This Index considers how much an insured would pay in premiums and how much he would get back in cash value and dividends if he should

surrender the policy after 10 years or 20 years. This index also considers when premiums, dividends, and 10 year or 20 year cash values would be paid, by using a 4% interest factor. The Interest Adjusted Index does not consider (1) The value of the services of an agent or company; (2) The relative strength and reputation of the company; or (3) Small differences in the policy provisions. The illustrated dividends accounted for in the Interest Adjusted Cost Comparison Index are neither guarantees nor estimates of future dividends, and are subject to annual change. Participating policies can be compared with non-participating policies only if it is kept in mind that the Interest Adjusted Cost Comparison Index for participating policies involves dividend projections and therefore is not guaranteed.

(e) If dividends are involved in the Interest Adjusted Index calculation, the equivalent level amount of such dividends based upon a 4% interest assumption shall be separately disclosed.

SECTION 6. DECEPTIVE PRACTICES

The following verbal or written unfair practices and deceptive acts in the selling of the type of insurance described in this Regulation are considered by the Insurance commissioner as coming within the definition of Arkansas Statutes Annotated §66-300 and other applicable Arkansas Statutes, and are prohibited:

- A. The making of any misrepresentation or false, deceptive or misleading statement;
- B. The use of terms such as financial planner, investment adviser, financial consultant, or financial counselor to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case;
- C. The use of terms such as savings, deposits, *investments*, etc., in such a way as to mislead the prospective purchaser to believe that the primary purpose of the life insurance solicitation is of an investment nature;
- D. The use of comparisons or analogies or the *manipulation* of amounts and numbers in such a way as to mislead the prospective purchaser concerning:
 - (1) The cost of *insurance protection* to be provided by the insurance contract; or
 - (2) Any other *significant aspect* of the contract.
- E. The use of any system or presentation for comparing cost of life insurance that does not recognize the time value of money;
- F. In respect to participating policies, a description of the policy dividend as other than a refund or return of part of the premium paid, which is not guaranteed and which is subject to periodic change;
- G. The making of unfair or misleading comparisons of dissimilar policies or riders. An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services, or business methods.
- H. The reference to an insurance premium as a deposit, an Investment, a savings, or the use of other phrases of similar meaning, when referring to an insurance premium.
- I. To indicate that cash or loan values are death benefits or that said values are available in addition to the face amount of insurance payable, upon death of the insured.

SECTION 7. ADVERTISEMENT OF LIFE INSURANCE

- A. Definition of Advertisement

An "advertisement" for the purpose of these Rules shall include:

- (1) Printed and published material, audio visual material and descriptive literature of an insurer or an agent used in direct mail, newspapers, magazines, radio and TV scripts, billboards and similar displays; and

(2) Descriptive literature and sales aids of all kinds issued by an insurer or an agent for presentation to members of the insurance buying public, including, but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters; and

(3) Sales presentations and material prepared for use by brokers, agents, announcers, celebrities and other persons.

B. Disclosure of Required Information

(1) In all advertisements, the phraseology used must be in language that can be easily understood by persons of average education or intelligence within the segment of the public to which it is directed. All information shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence so that the information shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

(2) If an amount of insurance coverage is advertised, a simultaneous disclosure of the type of insurance being offered shall also be made in close proximity to such amount.

(3) In the event an advertisement uses the term "Non-medical," "No Medical Examination Required," or similar terms where issue is not guaranteed, said statement shall be accompanied by a further disclosure that health questions are involved and that issue of the policy may depend upon the answers to the health questions, and that issue of the policy is not guaranteed.

C. Testimonials or Endorsements by Third Parties

Testimonials or endorsements by third parties shall not be used in such a manner that has the capacity, tendency or effect of being misleading or deceptive. Testimonials and endorsements shall comply with the following minimum standards:

(1) Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these Rules.

(2) If the person or organization making a testimonial, endorsement or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact shall be disclosed in the advertisement by language substantially as follows, "Paid Endorsement." This Rule does not require disclosure of union "scale" wages required by *union rules* if the payment is actually for such "scale" for TV or radio performances. The payment of substantial amounts, directly or indirectly, for "travel and entertainment" for filming or recording of such advertisements removes the filming and recording from the category of unsolicited testimonials and requires disclosure of such compensation.

(3) An advertisement shall not state or imply that an insurer or policy has been approved or endorsed by any individual, group of individuals, society, association, or other organization, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, such fact shall be disclosed in the advertisement.

D. Group or Quasi-group Implications

An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates or underwriting privileges, unless such is the fact.

E. Introductory, Initial or Special Offers

(1) An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applications will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the

fact. An advertisement shall not contain phrases describing an enrollment period as "Special," "Limited," or similar words or phrases if the insurer uses such enrollment periods as a frequent method of advertising life insurance.

(2) An enrollment period during which a particular insurance, product may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than three (3) months between the close of the immediately preceding enrollment period. The advertisement shall indicate the date by which the applicant must mail the application which shall be not less than ten (10) and not more than forty (40) days from the date that such enrollment period is advertised for the first time. This Rule applies to all advertising media, i. e. mail, newspapers, radio, television, magazines and periodicals. It is inapplicable to solicitation of employees or members of a particular group, which otherwise would be eligible under specific provisions of the Insurance Code for group insurance.

(3) This Rule prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless such is the fact.

F. Identity of Insurer

(1) The name of the actual insurer shall be clearly identified and if any policy is advertised it shall be identified by form number, or otherwise described, so as to clearly identify the contract. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of the particular division of the insurer, service mark, slogan, symbol or other device, which, without disclosing the name of the actual insurer, would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

(2) No advertisement shall use any combination of words, symbols, or physical materials, which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by agencies of the federal government or of any state government, or otherwise appear to be of such nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

G. Jurisdictional Licensing

An advertisement shall not create the impression, directly or indirectly that the insurer, its financial condition,, or states or the payment of its claims, or the merits, desirability or advisability of its policy forms or kinds or plans of insurance are approved, endorsed, or licensed by this State, or the United states Government or the Department of Insurance.

H. Enforcement Procedures

(1) Advertising File

Each insurer shall *maintain at* its home office or principal office, a complete file *containing every* printed, published or prepared advertisement used in the State of Arkansas, With a notation attached to each such advertisement which shall indicate the *manner and* extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by this Department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular Report of Examination on of the insurer, whichever is the longer period of time.

(2) Certificate of Compliance

Each insurer required to file an Annual Statement, which is now or which hereafter becomes subject to the provisions .If these Rules, must file with this Department with its Annual Statement, a Certificate of Compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief, the advertisements which were disseminated by the insurer in this state during the preceding statement year complied or were made to comply in all respects with the provisions of these Rules and Regulations and the laws of the State of Arkansas as implemented and interpreted by these Rules.

SECTION 8. SEVERABILITY PROVISION

If any section or portion of a section of these Rules, or the applicability thereof to any person or circumstances, is held invalid by a court, the remainder of the Rules, or the applicability of such provision to other persons or circumstances shall not be affected thereby.

SECTION 9. EFFECTIVE DATE

The effective date of this Rule and Regulation is February 1, 1974.

Ark Monroe, III
Insurance Commissioner